

**Date:** August 26, 2009  
**To:** Nevada City City Council  
**From:** Tom Parilo, Contract Planner  
Cindy Siegfried, City Planner  
**Subject:** Public Hearing to adopt

1. The 2009-2014 Housing Element
2. Various amendments to the Land Use Element of the 1986 General Plan in order to implement the 2009-2014 Housing Element
3. Various amendments to the Zoning Ordinance in order to implement the 2009-2014 Housing Element
4. An amendment to Section 16.04.054 of the Subdivision Regulations in order to implement the 2009-2014 Housing Element

**RECOMMENDATION:** Conduct public hearing and adopt, with or without changes, the following actions:

1. Negative Declaration
2. 2009-2014 Housing Element
3. Various amendments to the Land Use Element of the 1986 General Plan in order to implement the 2009-2014 Housing Element
4. Various amendments to the Zoning Ordinance in order to implement the 2009-2014 Housing Element
5. Amendment to Section 16.04.054 of the Subdivision Regulations in order to implement the 2009-2014 Housing Element

## **BACKGROUND**

The draft Housing Element has been undergoing the mandatory California Department of Housing and Community Development (HCD) review. The Initial Study has also been prepared and has been recommended for adoption by the Planning Commission to adopt the Housing Element and related implementation programs at their July 16, 2009 meeting. Specific General Plan amendments and rezonings to accommodate R3 zoning will be scheduled following adoption of the Housing Element. In addition there are a few policies that will require active implementation that goes beyond the amendments that support the adoption of the Housing Element. They include Program 12 requiring coordination with FREED to develop a reasonable accommodation policy for disabled residents and Programs 44 and 46 which would lead to a more formalized relationship with APPLE Center for Sustainable Living to become a contact for energy efficiency and green building assistance as well as promoting PG&E rebates.

## **INTRODUCTION**

The purpose of this public hearing is for the City Council to review and approve the recommendations of the Planning Commission to adopt the 2009-2014 Housing Element update along with the various enumerated implementation programs, with or without changes. The balance of this report addresses key issues regarding the Housing Element and various implementing programs. Each topic is addressed separately.

The staff report is organized in the following manner (See Blue legal size dividers):

Section 1	Revisions to eh March 2009 Housing Element as required by HCD
Section 2	Revisions to the Land Use Element
Section 3	Revisions to the Zoning Code
Section 4	Revisions to the Subdivision Regulations
Section 5	CEQA/Negative Declaration documents
Section 5	Detailed recommendation

Section 5 includes five separate actions as follows (See numbered tabs):

- |           |  |
|-----------|--|
| Exhibit 1 | Resolution adopting the Negative Declaration                                       |
| Exhibit 2 | Resolution adopting the 2001-2014 Housing Element                                  |
| Exhibit 3 | Resolution adopting amendments to the Land Use Element of the 1986<br>General Plan |
| Exhibit 4 | Ordinance amending the Zoning Code   |
| Exhibit 5 | Ordinance amending the Subdivision Regulations                                     |

## Housing Element

There are a number of changes made to the Housing Element as part of the HCD review. Those changes are included as separate amendments to the March 2009 draft Housing Element. Each is briefly discussed below. Following City Council review and approval a final Housing Element will be assembled and referred to HCD for their final certification determination.

### Inclusionary Housing

The method whereby the Housing Element and related implementing programs addresses inclusionary housing is one significant local area of concern. Program 4 (page 6-4) in Section 6 of the March 2009 draft Housing Element states as follows:

“Thirty percent of all single family detached or attached homes located in new subdivisions or condominium/townhome developments that create three or more units (Ordinance 2003-03) shall be deed restricted to 1,500 square feet or smaller. Twenty five percent of those units shall be deed restricted for Low Income households and 75 percent shall be deed restricted for Moderate Income households. The developer may obtain a density bonus for the deed restricted units in accordance with uncodified Ordinance 90-10.”

This program was added as a way of assisting staff in its review of residential ownership development projects. The suggested 75 percent Moderate and 25 percent Low income deed restrictions for the 1,500 square foot maximum unit sizes were included because standards requiring income based deed restrictions from the 2001-2008 Housing Element were not fully implemented. Currently, the City Subdivision Regulations (Section Section 16.04.054) only requires the filing of a deed restriction to reflect the size limitation for the 1,500 square foot maximum. There is no adopted deed restriction requirement to include moderate income or below households as required by program 16b and 16c of the 2001-2008 Housing Element.

Requiring income-based deed restrictions to accomplish affordability on small projects is at best difficult. Larger developments in urban areas can absorb income based deed restrictions. The City's only real success is in obtaining income-based deed restrictions on second units. Normally, these units are set aside for Moderate and Low income. Upon working with the land owners who have expressed interest in the R3 zone, it has become apparent that these types of income based deed restrictions are not financially feasible for small developments (i.e. projects less than 60 to 80 units). If Program 4 is adopted as previously proposed, it may have a negative impact on the development of any ownership based projects. In short, more flexibility is needed in this regard.

The City is committed to work with developers to achieve affordability in new development as outlined in the 2001-2008 programs. The current practice is for the City to require size restrictions and to strive to obtain income based deed restrictions where it can. The most recent example is the Gracie Commons project which was approved in February 2009. This project provides a total of 16 ownership dwelling units with 4 second dwelling units. A total of 8 ownership units are to be built to less than 1,500 square feet, six of which will be deed restricted as to size. Three of the second units will be deed restricted for rents meeting Very Low income requirements. Two of those smaller units will also be deed restricted for sale to a Moderate income household.

The City also created a variety of affordable components to the Uncle Jim's Cottages project and similarly with the Co-housing project, both located off West Broad Street. The point of referencing these projects is that all three included affordable housing component that included size restrictions, income based deed restrictions, second units and a rental component to increase

affordability. Each project was different, but each provided an affordable housing component that included size restrictions, income based deed restrictions and other features to accomplish affordability. A one-size-fits-all approach (as originally provided in Program 4) may not have worked in each case. Program 4 is regulatory based and does not reflect local economic and other factors that landowners must deal with in the development of small residential projects and in particularly these uncertain times. The better outcome and approach would be to modify Program 4 to reflect the successes associated with the three recent projects. All were based on a collaborative approach to providing an affordable component. This type of approach works well when dealing with smaller projects rather than a mandate that may have the unintended consequence of discouraging residential development.

In light of this reality and building on the successes of recent projects, Program 5 (contained in the August 2009 Housing Element) (See Exhibit H attached to this section) is proposed to be modified as follows:"

*"Thirty percent of all single family detached or attached homes located in new subdivisions or condominiums/ townhomes developments that create three or more units (Ordinance 2003-03) shall be deed restricted to 1,500 square feet or smaller. The subdivision shall include an affordable housing plan that includes moderate and below income housing opportunities. Said program may be accomplished through a variety of mechanisms including, but not limited to size restrictions, rental units (multiple family), second units, etc. The ultimate program shall be approved by the Planning Commission and/or City Council."*

The only real uncertainty in the Nevada City housing market is how and when the national and state current economic downturn will recover. Once it does, there may be more certainty as to what type of policies and programs will do most to promote affordable housing. It is clear however that HCD's default density (16 units per acre) will produce housing at greater densities than can currently be built. The City should monitor the effectiveness of this new program through the current housing element cycle to see how or if the new R3 zoning district will fulfill its intended outcomes. In the meantime new Program 5 can be used to obtain additional sources of affordable housing units. This change to the Housing Element is also included as an amendment to Section 16.04.054 of the Subdivision Regulations (See Exhibit 5).

#### State Department of Housing and Community Development Review status

As of the writing of this staff report, HCD has not yet provided their final acceptance of the City's draft Housing Element. HCD has provided initial comments and staff has responded to their comments. We are currently awaiting further comments and/or an indication that HCD will accept the changes as meeting state Housing Element law.

The following changes are recommended to address HCD's latest comments to the draft March 2009 Housing Element.

### **Revised discussion regarding overcoming the 2001-2008 deficit**

HCD's first set of comments indicated that they would not accept the City's method to overcome the 39 unit deficit. After further analysis, two additional mixed residential units were discovered that were approved during the 2001-2008 planning period. These additional two units effectively reduced the deficit to 37 units. In our second phone discussion with HCD on July 10, 2009, the requested credit for building re-use (i.e. conversion of transient units to rental housing), mixed use opportunities provided through existing zoning and new Housing Element programs, inclusionary housing programs, second units, and finally actual multiple family rental rates were accepted. In all, the analysis in Exhibit A concludes that there would be 53 potential units that would be applied to the 37 unit deficit. Exhibit A is an amendment to the entire text contained in Section 2.15 Adequate Sites Implementation Program on pages 2-4 through 2-8 of the March 2009 Housing Element.

### **Revised discussion regarding adequate sites for the 2009-2014 Planning Period**

HCD requested additional analysis and discussion regarding the methodology to demonstrate that it will have adequate lands planned and zoned to meet the 2009-2014 Regional Housing Needs Plan for Nevada City. Based on Section 65583.2(c)(3)(B)(i) of the Government Code, Nevada City is required to have zoning meeting at least 16 units per acre to meet its "default" density to satisfy its needs to accommodate both Very Low and Low income housing needs. The discussion in Section 4.20 of the draft 2009-2014 Housing Element has been revised to further address the City's absolute needs. Since the City Council has selected three sites that could yield up to 75 dwelling units, Section 4.20 has removed the need for a 25 percent surplus factor. Based on the incorporation of 12 second dwelling units, the City would need to accommodate an additional 37 units via R3 zoning or 2.3 acres based on 16 u.p.a. density provided through the draft R3 zone.

The full text revising Section 4.20 is attached as Exhibit B.

### **Revised discussion regarding "Available Sites and Land Inventory" for 2009-2014 Planning Period**

Section 4.05 has been revised to reflect an updated discussion that removes existing R2 zone densities from the inventory of available sites. Most sites removed reflect smaller parcels and those with existing uses that may make it difficult to be redeveloped. See Exhibit C.

### **Revised discussion regarding "Opportunities for Energy Conservation" for the 2009-2014 Planning Period**

Section 3.70 "Opportunities for Energy Conservation" has been revised to reflect responses made to HCD. Those changes are provided in Exhibit D.

### **Revised discussion regarding "Persons with Disabilities" for the 2009-2014 Planning Period**

Section 5.5, "Persons with Disabilities" has been revised to reflect responses made to HCD. Those changes are provided in Exhibit E.

### **Revised Tables in Section 5.35 “Mitigation Fees” for the 2009-2014 Planning Period**

Table 5.00 7 has been revised to correct the multiple family unit hook fees. In addition two additional tables have been added to reflect comparable connection fees for water and sewer in other similar cities within the immediate region. See Exhibit F.

### **Revised discussion regarding “Land Use Controls” for the 2009-2014 Planning Period**

HCD requested additional discussion and evaluation whether developments standards in the residential zoning districts impede development and/or unnecessarily adds costs. Exhibit G provides an expanded discussion of the standards applicable in each zone intended to accommodate residential as a primary use.

### **Revised “Goals, Objectives, Policies and Programs”**

Together with text changes to address HCD comments, there are also changes to the Goals Objectives, Policies and Programs (Section 6 of the March 2009 Draft Housing Element). Generally, most are in response to HCD comments. See Exhibit H.